

AMENDED IN SENATE JUNE 3, 2002

SENATE BILL

No. 2024

Introduced by Senator Figueroa

February 22, 2002

An act to amend, *repeal, and add* Section 12439 of the Government Code, relating to state employment, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 2024, as amended, Figueroa. State employees: vacant positions: ~~hiring freeze~~.

Existing law, with certain exceptions, requires the Controller, commencing July 1, 2001, to abolish any state position that was vacant continuously for 6 consecutive monthly pay periods during the period between July 1 and June 30 of the preceding fiscal year. Existing law also requires that positions that were continuously vacant for 6 consecutive monthly pay periods during a fiscal year because of a hiring freeze in effect during part or all of that period be abolished unless the Director of Finance is notified of the need for, and approves of, the continuance of the ~~positions~~.

~~This bill would delete the provisions relating to the abolishment of positions that were continuously vacant because of a hiring freeze, and would, instead, provide that no time during a hiring freeze may be included when determining whether a position has been vacant for 6 consecutive monthly pay periods.~~ *positions. Existing law provides that the only exceptions to abolishment under these provisions are positions exempt from civil service or instructional and instruction-related positions authorized for the California State University. Existing law*

also imposes upon the Controller reporting requirements related to these provisions.

This bill would, operative July 1, 2002, repeal and reenact these provisions. The reenacted provisions would specify that the 6 consecutive monthly pay periods need not occur within a single fiscal year. These provisions would also permit the Director of Finance to authorize the reestablishment of positions abolished under these provisions for certain additional reasons, would require the Controller to reestablish positions if specified criteria are met, would modify the Controller's reporting requirements, and would impose specified reporting requirements on each state department, as defined.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 12439 of the Government Code is~~
2 ~~amended to read:~~
3 ~~12439. (a) Beginning July 1, 2001, and on each July 1~~
4 ~~thereafter, the Controller shall abolish any state position that was~~
5 ~~vacant continuously for six consecutive monthly pay periods~~
6 ~~during the period between July 1 and June 30 of the preceding~~
7 ~~fiscal year. No time during a hiring freeze may be included when~~
8 ~~counting six consecutive monthly pay periods for purposes of this~~
9 ~~section.~~
10 ~~(b) If late enactment of the annual Budget Act contributes to the~~
11 ~~abolishment of any proposed new position or positions, or if~~
12 ~~significant recruitment problems for hard-to-fill classifications, as~~
13 ~~determined by the Department of Finance, contribute to the~~
14 ~~abolishment of positions, a state agency may submit a written~~
15 ~~request for reestablishment of the positions to the Director of~~
16 ~~Finance. The positions may be reestablished upon approval~~
17 ~~granted by the Director of Finance.~~
18 ~~(c) The only exceptions to this abolishment are positions~~
19 ~~exempt from civil service or instructional and instruction-related~~
20 ~~positions authorized for the California State University.~~



1 ~~(d) No money appropriated by the subsequent Budget Act shall~~
2 ~~be used to pay the salary of any otherwise authorized state position~~
3 ~~that is abolished pursuant to this section.~~

4 ~~(e) The Controller, no later than the following August 1 of each~~
5 ~~succeeding fiscal year, shall notify the Department of Finance in~~
6 ~~writing of any authorized state position that was vacant~~
7 ~~continuously during that period.~~

8 ~~(f) The Controller, no later than the following December 1 of~~
9 ~~each succeeding fiscal year, shall furnish the Joint Legislative~~
10 ~~Budget Committee a report on all positions as of July 1 that were~~
11 ~~unfilled continuously for six consecutive monthly pay periods~~
12 ~~during the period between July 1 and June 30 of the preceding~~
13 ~~fiscal year.~~

14 ~~SEC. 2.—~~

15 *SECTION 1. Section 12439 of the Government Code is*
16 *amended to read:*

17 12439. (a) Beginning July 1, 2001, and on each July 1
18 thereafter, the Controller shall abolish any state position that was
19 vacant continuously for six consecutive monthly pay periods
20 during the period between July 1 and June 30 of the preceding
21 fiscal year. Those positions that were continuously vacant for six
22 consecutive monthly pay periods during a fiscal year because of
23 a hiring freeze in effect during part or all of the period shall also
24 be abolished unless the need for continuing these positions is
25 provided in written notice to, and approval is granted by, the
26 Director of Finance.

27 (b) If late enactment of the annual Budget Act contributes to the
28 abolishment of any proposed new position or positions, or if
29 significant recruitment problems for hard-to-fill classifications, as
30 determined by the Department of Finance, contribute to the
31 abolishment of positions, a state agency may submit a written
32 request for reestablishment of the positions to the Director of
33 Finance. The positions may be reestablished upon approval
34 granted by the Director of Finance.

35 (c) The only exceptions to this abolishment are those positions
36 exempt from civil service or those instructional and
37 instruction-related positions authorized for the California State
38 University. No money appropriated by the subsequent Budget Act
39 shall be used to pay the salary of any otherwise authorized state
40 position that is abolished pursuant to this section.

(d) The Controller, no later than the following August 1 of each succeeding fiscal year, shall notify the Department of Finance in writing of any authorized state position that was vacant continuously during that period.

(e) The Controller, no later than the following December 1 of each succeeding fiscal year, shall furnish the Joint Legislative Budget Committee a report on all positions as of July 1 that were unfilled continuously for six consecutive monthly pay periods during the period between July 1 and June 30 of the preceding fiscal year.

(f) *This section shall remain in effect only until July 1, 2002, and as of that date is repealed.*

SEC. 2. *Section 12439 is added to the Government Code, to read:*

12439. (a) *Beginning July 1, 2002, any state position that is vacant for six consecutive monthly pay periods shall be abolished by the Controller on the following July 1. The six consecutive monthly pay periods may occur entirely within one fiscal year or between two consecutive fiscal years.*

(b) *The Director of Finance may authorize the reestablishment of any positions abolished pursuant to this section if one or more of the following conditions existed during part or all of the six consecutive monthly pay periods:*

(1) *There was a hiring freeze in effect during part or all of the six consecutive pay periods.*

(2) *The department has diligently attempted to fill the position, but was unable to complete all the steps necessary to fill the position within six months.*

(3) *The position has been designated as a management position for purposes of collective bargaining and has been held vacant pending the appointment of the director, or other chief executive officer, of the department as part of the transition from one Governor to the succeeding Governor.*

(4) *The classification of the position is determined to be hard-to-fill.*

(5) *Late enactment of the budget causes the department to delay filling the position.*

(c) *The Controller shall reestablish any position for which the director of the department in which that position existed prior to abolishment certifies by September 1 that one or more of the*

1 following conditions existed during part or all of the six
2 consecutive pay periods.

3 (1) The position is necessary for directly providing 24-hour
4 care in an institution operated by the state.

5 (2) The position is necessary for the state to satisfy any
6 licensing requirements adopted by a local, state, or federal
7 licensing or other regulatory agency.

8 (3) The position is directly involved in services for public
9 health, public safety, or homeland security.

10 (4) The position is being held vacant because the previous
11 incumbent is eligible to exercise a mandatory right of return from
12 a leave of absence as may be required by any provision of law
13 including, but not limited to, leaves for industrial disability,
14 nonindustrial disability, military service, pregnancy, childbirth, or
15 care of a newborn infant.

16 (5) The position is being held vacant because the department
17 has granted the previous incumbent a permissive leave of absence
18 as may be authorized by any provision of law including, but not
19 limited to, leaves for adoption of a child, education, civilian
20 military work, or to assume a temporary assignment in another
21 agency.

22 (6) Elimination of the position will directly reduce state
23 revenues or other income by more than would be saved by
24 elimination of the position.

25 (d) Each department shall maintain for future independent
26 audit all records on which the department relied in determining
27 that any position or positions satisfied one or more of the criteria
28 specified in paragraphs (1) to (6), inclusive, of subdivision (c).

29 (e) The only other exceptions to the abolishment required by
30 subdivision (a) are those positions exempt from civil service or
31 those instructional and instruction-related positions authorized
32 for the California State University. No money appropriated by the
33 subsequent Budget Act shall be used to pay the salary of any
34 otherwise authorized state position that is abolished pursuant to
35 this section.

36 (f) The Controller, no later than September 10 of each fiscal
37 year, shall furnish the Department of Finance in writing a
38 preliminary report of any authorized state positions that were
39 abolished effective on the preceding July 1 pursuant to this section.

1 (g) *The Controller, no later than October 15 of each fiscal year,*
2 *shall furnish the Joint Legislative Budget Committee and the*
3 *Department of Finance a final report on all positions that were*
4 *abolished effective on the preceding July 1.*

5 (h) *Departments shall not execute any personnel transactions*
6 *for the purpose of circumventing the provisions of this section.*

7 (i) *Each department shall include a section discussing its*
8 *compliance with this section when it prepares its report pursuant*
9 *to Section 13405.*

10 (j) *As used in this section, “department” means any*
11 *department, agency, board, commission, or other organizational*
12 *unit of state government that is empowered to appoint persons to*
13 *civil service positions.*

14 (k) *This section shall become operative July 1, 2002.*

15 SEC. 3. This act is an urgency statute necessary for the
16 immediate preservation of the public peace, health, or safety
17 within the meaning of Article IV of the Constitution and shall go
18 into immediate effect. The facts constituting the necessity are:

19 In order to prevent inappropriate ~~abolishment~~ loss of state
20 positions, including positions that secure the public peace, health,
21 and safety, it is necessary that this act go into immediate effect.